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SUBJECT: PROVINCIAL COUNCILS TERMS OF OFFICE

11. (SBU) Summary: Iraq,s provincial councils were seated in January 2005. It is commonly assumed that members of the provincial councils were, like members of the Council of Representatives, elected to four year terms and that new elections are therefore required by January 2009. However, this assumption is incorrect, because there is no legislation in place that defines the term of office for provincial council members. In theory, the current provincial councils will remain seated indefinitely until legislation is enacted defining their terms of office. End Summary.

12. (SBU) The Coalition Provisional Authority (CPA) Transitional Administrative Law (TAL) Chapter Eight discusses provincial councils. TAL Chapter 8 Article 55 (B) states that "(e)ach Governor and member of each Governorate Council who holds office as of 1 July 2004 in accordance with the law on local government that shall be issued, shall remain in place until such time as free, direct, and full elections, conducted pursuant to law, are held..." The TAL makes reference to only one set of provincial elections. CPA Order 71 on Local Government Powers, Section 2, Article 4 states that "Elections for Governorate Councils will take place at the same time as elections for the National Assembly, no later than 31 January 2005." The combination of TAL Chapter 8 and CPA Order 71, which requires mandatory elections by 31 January 2005, implies a seven month term of office for those provincial council members who were in power on 01 July 2004.

13. (SBU) However, nowhere in TAL Chapter 8, CPA Order 71, CPA Order 92 (the Independent Electoral Commission of Iraq), or CPA Order 96 (the Electoral Law) is there any reference to a subsequent term of office or subsequent elections for those provincial councils elected in January 2005. Collectively, the TAL and CPA legislation envisioned only one set of provincial elections in January 2005, and made no provision for any others. The expectation was that the Constitution and other legislation drafted after January 2005 would subsequently define terms of office.

14. (SBU) While this did in fact happen with the CoR, whose four year terms of office were subsequently defined in Article 56 of the Constitution, no similar provision addresses the Provincial Councils. The only relevant provision of the Constitution, Article 122 clause Fourth, states that "a law shall regulate the election of the Governorate Council, the governor, and their powers." The referenced law defining both their election and their powers has yet to be passed. As a result, the existing provincial councils will remain seated until legislation is enacted defining their terms of office. (Note: current drafts of the proposed Law of Governorates Not Organized into a Region contemplate a four year term of office. End Note.)
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